

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BILLY DEAN PIKE,

Defendant.

8:17CR216

MEMORANDUM AND ORDER

This matter is before the Court once again on the Defendant's "Motion for Sentencing Modification," ECF No. 39. The Court denied the Defendant's Motion, without prejudice to resubmission following exhaustion of administrative remedies. See Memorandum and Order of April 29, 2020, ECF No. 40. The Defendant has submitted evidence of his exhaustion of administrative remedies, ECF No. 41, and the Court considers his earlier Motion, ECF No. 39, to be renewed.

The Defendant seeks a modification of his sentence pursuant to 18 U.S.C. § 3582(c)(1)(A) as amended by Section 603 of the First Step Act, Pub. L. No. 115-391, 132 Stat. 5194 (2018), specifically to a term of home confinement. He asserts that he suffers from medical conditions that make him especially vulnerable to adverse effects from exposure to coronavirus and the disease of COVID-19.

On its initial review of the Defendant's motion, the Court finds the Defendant has at least a colorable claim under § 3582(c)(1)(A), and appointment of counsel will help the Court determine whether the Defendant merits relief under that section. Accordingly,

IT IS ORDERED:

1. The Federal Public Defender for the District of Nebraska is appointed to represent the Defendant for the limited purpose of determining whether there are extraordinary and compelling reasons to reduce the Defendant's term of imprisonment;

2. In the event the Federal Public Defender declines this appointment because of any conflict under the Amended Criminal Justice Act Plan, the Federal Public Defender will provide the Court with a draft appointment order (CJA Form 20) bearing the name and other identifying information of the CJA Panel attorney identified in accordance with the Amended Criminal Justice Act Plan for this district;

3. If, upon his review, the Federal Public Defender concludes the Defendant's motion is frivolous, the Federal Public Defender may move to withdraw as counsel;

4. The government will respond to the Defendant's motion on or before July 6, 2020. The Federal Public Defender will promptly file any supplementary briefing or evidence necessary to the Court's disposition of the motion. Absent an extension, the Defendant's motion will be deemed submitted as of July 17, 2020;

5. The Office of U.S. Probation and Pretrial Services is authorized to disclose Presentence Investigation Reports to the Federal Public Defender and the United States Attorney for the purpose of evaluating the Defendant's motion. The Federal Public Defender will provide the Presentence Investigation Report to any subsequently appointed or retained counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Report shall be provided to inmates; and

6. The Clerk will mail a copy of this Memorandum and Order to the Defendant at his last known address.

Dated this 29th day of June 2020.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge